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RIGHTS OF THE CHILD

Additional report of the Special Representative of the Secretary-General for Children and Armed Conflict, Mr. Olara A. Otunnu, submitted in accordance with General Assembly resolution 56/138

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Executive summary

This report to the Commission on Human Rights supplements the report of the Special Representative of the Secretary-General for Children and Armed Conflict to the General Assembly (A/56/453) and the report of the Secretary-General to the Security Council and the General Assembly (A/56/342-S/2001/852). It highlights issues of particular relevance to the work of the Commission.

Since the last reporting period, existing international instruments for the protection of children affected by armed conflict have been further strengthened by the progress made on the ratification of the Optional Protocol and its coming into force on 12 February 2002, as well as the adoption of the groundbreaking Security Council resolution 1379 (2001) the third resolution on children and armed conflict since 1999.

Whilst welcoming these important developments, the Special Representative underscores in this report that unless all parties to conflict adhere to their commitments, comply with their international obligations and are held accountable for non-compliance, the plight of children in situations of armed conflict will remain grave. In this connection, the Office of the Special Representative is exploring ways and means by which to enhance our collective capacity to monitor and report on the conduct of parties to conflict in breach of their obligations and commitments. Such enhanced capacity would build on, complement and support the work of local and international networks of non-governmental organizations, civil society organizations and other entities which are already present on the ground.

In keeping with his repeated call for an "era of application" of norms and standards, the Special Representative urges all special rapporteurs and the Office of the High Commissioner for Human Rights (OHCHR) to continue systematically to monitor the rights and protection of children affected by armed conflict, as defined in Security Council resolutions 1261 (1999), 1314 (2000) and 1379 (2001), the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in conflict, and all other relevant international legal norms and standards.

The need to address impunity and to bring to justice those responsible for violations of the rights of children in situations of armed conflict continues to be a preoccupation of the Office of the Special Representative. The Office has been working with the Office of Legal Affairs (OLA), the United Nations Children's Fund, OHCHR, and the United Nations Mission in Sierra Leone (UNAMSIL) to guide developments related to the involvement of children in the Truth and Reconciliation Commission and the Special Court for Sierra Leone.

Following on the Special Representative's proposal of a research agenda in 2000, a research network on children and armed conflict has been constituted and a coordinating secretariat has been established at the Social Science Research Council to promote more targeted research on children and armed conflict.

In view of the grave human rights situation in northern Uganda, the Special Representative calls on the Commission to, inter alia, appoint a Special Rapporteur for northern Uganda to monitor and report to the Commission accordingly, and to call for the immediate dismantling of the "protected villages" and the return of the populations to their homes.

The Office of the Special Representative continues to work with other partners to ensure the incorporation of child protection into peace processes. An Inter-Agency Working Group on the Incorporation of Child Protection in United Nations Peacemaking, Peacekeeping and Peace-building Operations, co-convened by the Department of Peacekeeping Operations, the Office of the Special Representative, UNICEF and the Department of Political Affairs, met for the first time in November to determine how best to inform and shape United Nations policy in this area.

Similarly, the Office of the Special Representative, UNICEF and Radda Barnen, in collaboration with the Department of Peacekeeping Operations, have formed an informal working group on child protection training for peacekeeping personnel, including guidance as dilemmas arise in the discharge of their functions, to ensure the implementation of the Secretary-General's recommendation that all personnel in peacemaking, peacekeeping and peace-building operations be trained on the rights and protection of children.

The Office of the Special Representative continues to work with Member States and UNICEF to ensure that the rescheduled special session of the General Assembly, which will take place from 8 to 10 May 2002, significantly advances the protection of children in armed conflict and post-conflict situations.

I. INTRODUCTION

1. This report to the Commission on Human Rights supplements the report of the Special Representative of the Secretary-General for Children and Armed Conflict to the General Assembly (A/56/453) and the report of the Secretary-General to the Security Council and the General Assembly (A/56/342-S/2001/852). It highlights issues of particular relevance to the work of the Commission.

II. NEW MILESTONES IN CHILD PROTECTION NORMS AND STANDARDS

A. Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

2. By November 2001, the 10 ratifications to bring the Optional Protocol on the involvement of children in armed conflict into force were received. The Optional Protocol will come into force on 12 February 2002. It represents the culmination of an increasingly strong and comprehensive set of international legal instruments for the protection of children affected by armed conflict in that it raises the minimum age of conscription from 15 to 18; calls upon States to ensure that members of their armed forces under age 18 do not participate directly in hostilities; and bans the recruitment of under-18's by rebel and insurgent groups "under any circumstances".

B. Security Council resolution 1379 (2001)

3. Perhaps the most important event that was planned to coincide with the opening of the special session of the General Assembly on children on 19 September 2001, was the convening of a Security Council summit on children and armed conflict, with President Jacques Chirac of France presiding. Eight other heads of State or Government were to have participated in the adoption of a path-breaking Security Council resolution.

4. With the postponement of the special session in the wake of the tragic events of 11 September, the Security Council open debate on children and armed conflict took place on 20 November 2001. The Council had before it the second report of the Secretary-General on children and armed conflict, the preparation for which the Office of the Special Representative had served as focal point.

5. The Council adopted resolution 1379 (2001), the third resolution on children and armed conflict adopted since 1999. Building on earlier Security Council resolutions (1261 (1999) and 1314 (2000)), resolution 1379 (2001) reiterates extensive support and guidance for efforts to advance the protection of children in peacemaking, peacekeeping and peace-building processes. The resolution expresses the Council's readiness explicitly to include provisions for the protection of children when considering the mandates of peacekeeping operations and to continue to include, where appropriate, child protection advisers in such operations. The Council also calls upon parties to armed conflict to provide for the protection of children in peace agreements and requests the Secretary-General to take the protection of children into

account in reports and peacekeeping plans submitted to the Council, as well as to intensify the monitoring of, and reporting on, the situation of children affected by armed conflict in peacekeeping and peace-building operations.

6. This Security Council in its resolution also urged more clearly than ever that State, non-State and international actors, including international financial institutions (IFIs), should take action to protect children affected by armed conflict. In particular, it underscored that individuals, "entities" and corporations that maintain commercial relations with parties to conflict should be held accountable if they promote or contribute to violations of the rights of children by the parties to conflict. The resolution enjoins Member States to consider measures against corporate actors, entities and individuals which engage in illicit trade, and to discourage corporate actors from maintaining commercial relations with those parties to armed conflict which violate international laws pertaining to the protection of children in armed conflict.

7. Significantly, in resolution 1379 (2001) the Council requested the Secretary-General to attach to his next report on children and armed conflict to the Council a list of parties to armed conflict that recruit or use children in violation of international obligations, in situations that are on the Council's agenda or that may be brought to the attention of the Council, in accordance with Article 99 of the Charter.

8. The Security Council also broke new ground in another respect: this was the first time that a child, a 14-year old former child soldier from Sierra Leone, was invited to address the Council. He provided a personal and vivid account of his own experiences as a forcibly recruited combatant, and his subsequent demobilization, rehabilitation and ongoing process of reintegration into civil society.

III. THE CHALLENGE OF IMPLEMENTATION

A. Application of norms and standards

9. Despite the significant progress in child protection norms and standards, children remain the chief victims of armed conflict. For this reason, the Special Representative has continued to urge the international community to launch "an era of application". He has urged United Nations partners, State and non-State actors, the wider international community and the general public to think about new ways to promote and support the effective application of the large body of existing child protection norms and standards. He has underscored that unless all parties to conflict adhere to their commitments, comply with their international legal obligations and are held accountable for non-compliance, the plight of children in situations of armed conflict risks further deterioration. Moreover, the normative milestones that were attained in November 2001 - the Optional Protocol and Security Council resolution 1379 (2001) - would also be undermined and weakened.

10. The Special Representative has also consistently highlighted that the application of child protection norms and standards necessitates addressing the political, social and economic factors which underlie or exacerbate armed conflicts particularly harmful to children and, more insidiously, which create an environment that becomes conducive to the direct participation of children and youth in conflict.

B. Monitoring and ensuring compliance

11. The application of child protection norms and standards on the ground can only occur with the active involvement, cooperation and action on the part of all relevant local and international actors: political leaders, policy makers, international organizations, including the United Nations system, child advocates, NGOs, wider civil society, and the general public. This requires, among other things, updated and credible information on the effects of conflict on children so that timely, appropriate and concerted action can be taken to protect them.

12. In this regard, the Office of the Special Representative has initiated a wide consultative process to explore ways to systematically monitor, verify information concerning and report on the conduct of parties to conflict in breach of their obligations and commitments, including in respect of commitments garnered through the good offices of the Special Representative himself. Accurate, up-to-date and consolidated information is essential to mobilize local, national and international actors and decision makers to bring pressure to bear on parties to conflicts to comply with their obligations and commitments. It would also help publicize where compliance is effective and successful. Such steps would build on, complement and support the work of existing local and international networks of NGOs, civil society organizations and other entities which are already present on the ground.

13. The Office of the Special Representative is planning to work with local, national and subregional institutions, NGOs, wider civil society and the international community, including the United Nations system and regional organizations, to build networks and capacities for advocacy at the subregional level to raise awareness about the significant body of child protection norms and standards and their practical implications; to promote the application, on the ground, of the existing child protection norms and standards, especially the Optional Protocol and Security Council resolutions 1261 (1999), 1314 (2000) and 1379 (2001) and commitments made by parties to conflict and ensure broad dissemination of information about these and other instruments; to help raise awareness of cross-border practices affecting children such as cross-border abduction of children, the sale or trafficking of children and illicit trade in mineral resources; to help monitor and report on both compliance and breaches by parties to conflict relative to their international obligations and commitments, including those affecting cross-border practices; and to provide ideas and guidance on juvenile justice systems and reforms.

C. Addressing impunity and the protection of children in truth and justice-seeking mechanisms

14. The need to address impunity and to bring to justice those responsible for violations of the rights of children in situations of armed conflict continue to be a preoccupation of the Office of the Special Representative. The Secretary General's second report on children and armed conflict (A/56/342-S/2001/852) contains a number of pertinent recommendations in this regard. Moreover, the Security Council, in resolution 1379 (2001), called upon Member States to "put an end to impunity, prosecute those responsible for genocide, crimes against humanity, war crimes and other egregious crimes perpetrated against children and exclude, where feasible, these crimes from amnesty provisions and relevant legislation, and ensure that post-conflict truth-and-reconciliation processes address serious abuses involving children".

15. While it is clear that the Truth and Reconciliation Committee and the Special Court in Sierra Leone, the Commission for Reception, Truth and Reconciliation in East Timor, and similar mechanisms elsewhere should play important roles in the lives of children involved in armed conflict as witnesses, victims or perpetrators, past experience is a poor guide for those trying to ensure that children will avail themselves of, or benefit from, these procedures. We have much to learn about what truth and justice might mean to children at different ages, in a variety of circumstances and societies.

16. The Office of the Special Representative has been seeking to help provide concrete child-centred guidance during the development of truth commissions and war crimes tribunals while bearing in mind the overarching objectives of social reintegration, rehabilitation and reconciliation in post-conflict society. In this connection, it has been working for some time with OLA, UNICEF, OHCHR and UNAMSIL to guide developments related to the involvement of children in the Truth and Reconciliation Commission and the Special Court for Sierra Leone. Though neither institution is set up at present, the Office has contributed to guidelines and recommendations that will eventually be conveyed to the Special Court prosecutor and judges, and to the TRC Commissioners and staff, regarding the protection of children who might participate as victims, witnesses or perpetrators of grave abuses during the war.

17. In December 2001, the Office participated in an expert meeting on the relationship between these two institutions, convened by OHCHR and OLA. Together with UNICEF, the Office of the Special Representative ensured that the concluding recommendations of the expert meeting contained a section devoted to child protection, in which matters such as information sharing, public education and awareness raising, and the training of Court and TRC staff, are addressed.

18. The work of the Special Representative's Office and others related to the Sierra Leone Court and TRC inspired and contributed to a series of expert meetings convened by the Office on the topic of child protection within truth and justice-seeking mechanisms. In addition to several inter-agency meetings convened in 2000 and 2001 by the Office of the Special Representative to consider issues specifically related to Sierra Leone, a more general meeting was held on 10 May 2001 that brought United Nations departments and agencies together with researchers, academics and practitioners in the areas of child development, juvenile justice and child welfare programming to consider whether and how truth and justice processes can best involve and benefit children. Based on the May meeting and an upcoming series of discussions, we hope eventually to contribute to the development of concrete products such as: guidelines for prosecutors, truth commissioners, judges and investigators who will work with child perpetrators and witnesses in post-conflict contexts; training programmes for war crimes tribunal and truth commission staff; rehabilitative programmes and tools for long-term follow-up and monitoring of young offenders.

D. Filling knowledge gaps

19. Some of these complex and delicate issues will require long-term research and analysis that is best undertaken by academic institutions and networks. It is also widely understood that more targeted research and deeper knowledge of issues related to the question of children

affected by armed conflict will help provide the methodological and analytical tools that are necessary to implement existing child protection norms and standards. Thus, in 2000 the Special Representative proposed a research agenda entitled, "Filling Knowledge Gaps: A Research Agenda on the Impact of Armed Conflict on Children", which identified gaps in four main areas: current trends in warfare affecting children; reliable, disaggregated data on children affected by armed conflict; cultural norms and values that have traditionally served to protect children and women in times of armed conflict; and impact assessments of and "lessons learned" from programme interventions in the area of children affected by armed conflict, including the development of clear indicators to measure success.

20. With the generous sponsorship of the Government of Italy, a workshop was convened in Florence in July 2001 by the Office of the Special Representative, in collaboration with the Italian National Childhood and Adolescence Documentation and Analysis Centre and the Social Science Research Council (SSRC), to discuss and flesh out the four main areas of focus of the research agenda, as well as the best way to carry it forward. The workshop brought together for the first time an unusual combination of policy makers, practitioners, advocates, and researchers - drawn from a range of government and United Nations agencies, NGOs, foundations, research institutes and universities throughout the world.

21. At the workshop, it was agreed to establish an independent and decentralized research network to be coordinated by a secretariat based at SSRC in New York. The research network will be overseen and supported by an advisory board composed of representatives of non-governmental institutions, United Nations agencies and research institutions.

22. The research network will address the knowledge gaps as well as inform and strengthen policy and practice in the field of children affected by armed conflict by promoting, guiding and overseeing the development of research projects on issues related to the research agenda discussed in the Florence workshop; promote exchange, collaboration and coordination among the different actors and practitioners in this field; and help to build capacity in institutions primarily involved in research related to children affected by armed conflict.

23. The research network secretariat has been established within SSRC and work is under way to constitute the steering committee of technical experts to help identify and design specific research and other projects. Initiatives supported by the research network will be undertaken in collaboration with a wide range of partners including from academic institutions, the United Nations system, donors, NGOs, think tanks and other relevant organizations.

24. The Office of the Special Representative will continue to work very closely with SSRC and members of the network to promote the research agendas. The Office will participate in the advisory board and steering committee of the programme and will help ensure that the United Nations system as well as decision makers, policy makers and advocates working on issues relates to children affected by armed conflict take full advantage of the research and outcomes of the network.

IV. COMMISSION ON HUMAN RIGHTS

25. The Special Representative, at every opportunity, continues to advocate for the systematic inclusion of the rights and protection of children affected by armed conflict in the work of the Commission, as reflected in its resolutions and in the mandates of the special rapporteurs and other extraconventional mechanisms.

26. The Special Representative is pleased to note that various reports to the Commission increasingly highlight the plight of children affected by armed conflict and recognize that their concerns are becoming an integral part of efforts designed to promote and protect human rights in war-affected regions of the world.

27. During the fifty-seventh session of the Commission on Human Rights in 2001, reports submitted by several special rapporteurs and experts under the extraconventional mechanisms of the Commission included issues of concern to war-affected children. These reports included those of the Special Rapporteurs on the right to education (E/CN.4/2001/52), on adequate housing as a component of the right to an adequate standard of living (E/CN.4/2001/51) and on the right to food (in the report to the General Assembly, A/56/210); of the Representative of the Secretary-General on internally displaced persons (E/CN.4/2001/5); and of the Special Rapporteurs on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (E/CN.4/2001/21) and on violence against women, its causes and consequences (E/CN.4/2001/73). Many of these reports highlight, inter alia, the many devastating effects of armed conflict on children, as well as the socio-political and economic factors that contributed to the conflicts.

28. Additionally, the following resolutions of the Commission on Human Rights included issues of concern to children affected by armed conflict: resolutions on the situation of human rights in the Sudan (2001/18); in the Democratic Republic of the Congo (2001/19); in Afghanistan (2001/13); and in Cambodia (2001/82).

29. The Office of the Special Representative contributed to the report of the Special Rapporteur on violence against women, its causes and consequences, which focuses on the impact of armed conflict on girls, the gaps in protection and assistance to internally displaced women, and on women and girls being trafficked from refugee camps and other shelters intended for their protection. The Special Rapporteur had expressed particular concern about the growing number of reports of rape and other sexual offences committed by troops and staff in military bases around the world, including, on some occasions, by United Nations peacekeeping forces and staff, and the need to take all necessary steps to prevent these abuses (see E/CN.4/2001/73). The concerns raised by the Special Rapporteur about the conduct of peacekeepers are being addressed, amongst other issues, in the working groups that have been co-convened by the Office of the Special Representative, Department of Peacekeeping Operations and the Department of Political Affairs, with the participation of OHCHR and other United Nations agencies (see section VI).

30. In keeping with his repeated calls for an "era of application" of norms and standards, the Special Representative urges the Commission to request all special rapporteurs to continue to monitor systematically the rights and protection of children affected by armed conflict, as

defined in Security Council resolutions 1261 (1999), 1314 (2000) and 1379 (2001), the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in conflict, and all other relevant international legal norms and standards.

Mission to Uganda

31. In its resolution 2000/60 on the abduction of children from northern Uganda, the Commission on Human Rights requested OHCHR to undertake an assessment of the situation in the affected areas, including the needs of the victims. At the invitation of OHCHR, the Office of the Special Representative participated in the mission to northern Uganda and the Sudan from 17 March to 6 April 2001.

32. In view of the grave human rights situation in northern Uganda, characterized, in part, by atrocities against civilians, especially children and women; abductions of children; massive displacement of the population, including hundreds of thousands confined to "protected villages" where children are further exposed to human rights violations, including rape of women and young girls, denial of education, massive overcrowding, malnutrition, vulnerability to preventable diseases and high rate of infant mortality, the Special Representative calls on the Commission to take, inter alia, the following measures:

(a) To appoint a Special Rapporteur for northern Uganda to monitor and report to the Commission on the grave human rights situation in northern Uganda;

(b) To call for dismantling of the "protected villages" internment camps and the return of the population to their homes;

(c) To call for the establishment of a special trust fund for assistance and rehabilitation of war-affected children in northern Uganda.

V. COMMITTEE ON THE RIGHTS OF THE CHILD

33. In December 2000 and January 2001 the Office of the Special Representative submitted to the Committee information relevant to children affected by armed conflict in Guatemala and the Democratic Republic of the Congo (see E/CN.4/2001/76). The Committee's July 2001 concluding observations on both these countries reflected the concerns that the Office of the Special Representative had raised in its submissions. In the course of 2002 the Office intends to submit information relevant to the Committee's consideration of the reports of Mozambique, Guinea-Bissau and the Sudan.

34. The Office of the Special Representative wishes to support the work of the Committee related to children affected by armed conflict, in both conflict and post-conflict situations, by helping to ensure that reliable information from the ground reaches Committee members. The periodic reports from countries in such situations are likely to reflect the serious difficulties Governments and NGOs face when trying to gather credible data on the state of children in the midst of armed conflict or post-conflict turmoil.

35. In this regard, the Special Representative believes that Child Protection Advisers (CPAs) deployed with United Nations peacekeeping operations are sources of important information for the Committee. In early 2001 the Office of the Special Representative ensured that recent reports by the CPAs with the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) reached the Committee members in advance of their consideration of that country's report. The Office will continue to ensure that reports of CPAs are sent to the Committee.

36. In addition to using the CPAs as a resource to help in the consideration of government reports, the Special Representative urges the Committee to initiate a working relationship with CPAs, particularly in the Democratic Republic of the Congo and Sierra Leone, to ensure that they integrate the conclusions and observations of the Committee into the work of the respective peacekeeping operations.

37. Furthermore, the Office of the Special Representative intends to support the Committee in its new task of monitoring compliance with the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, by providing it with relevant information on breaches under the Optional Protocol.

38. The Special Representative urges the Committee in its review of States parties' reports to consider the extent to which relevant aspects of Security Council resolutions 1261 (1999), 1314 (2000) and 1379 (2001) on children and armed conflict have been implemented.

VI. INTEGRATING CHILD PROTECTION INTO PEACE OPERATIONS

39. Over the past two years the Office has been working in collaboration with United Nations and NGO partners to help ensure that United Nations peace operations increasingly address child protection concerns together with other key actors on the ground. The products and recommendations produced by the working groups described below in response to Security Council resolutions 1261 (1999), 1314 (2000) and 1379 (2001) should help to ensure that child protection concerns are increasingly at the forefront of United Nations peacemaking, peacekeeping and peace-building efforts, and that all United Nations peacekeeping personnel receive child protection training in the field.

Working groups

40. The Inter-Agency Working Group on the Incorporation of Child Protection in United Nations Peacemaking, Peacekeeping and Peace-building Operations, co-convened by the Department of Peacekeeping Operations, the Office of the Special Representative, UNICEF and the Department of Political Affairs, met for the first time in November to determine how best to inform and shape United Nations policy in this area (see A/56/453). The group currently comprises, in addition to the co-convenors, representatives of the United Nations Development Programme, OHCHR, the Office of the United Nations High Commissioner for Refugees, UNAIDS, the Department for Disarmament Affairs (DDA), the Office for the Coordination of Humanitarian Affairs and the World Health Organization. As a first step to informing and guiding its work, the Working Group has consulted with relevant United Nations country teams, peacekeeping operations and peace-building support offices in the field to find out to what extent

child protection has been incorporated in their work and draw on any lessons they may have learned in their efforts to do so. The Working Group hopes to produce concrete recommendations over the course of 2002.

41. The Working Group on Child Protection Training for Peacekeeping Personnel, co-convened by the Office of the Special Representative, UNICEF and Radda Barnen, met in May 2001 in New York to begin to involve a wide range of key actors in the production of core child protection training materials and methodologies that can be adapted for use by all United Nations peace operations. The meeting, attended by United Nations agencies and departments as well as NGOs with relevant experience, reviewed the particularities of the audience the Working Group intends to train, the content of the materials it plans to produce and the lessons learned in the employment of various training methodologies. Materials are currently being drafted for the further review of the Group in the course of 2002.

VII. RESCHEDULED GENERAL ASSEMBLY SPECIAL SESSION ON CHILDREN

42. Until the events of 11 September forced the postponement of the General Assembly special session on children and, concurrently, the cancellation of the Security Council summit devoted to children and armed conflict which was to take place at its opening, the Office of the Special Representative had been actively engaged in ensuring that priority attention would be paid to children in situations of armed conflict throughout the special session and in its outcome document. The Office continues to work with Member States and UNICEF to ensure that the rescheduled special session, which will take place from 8 to 10 May 2002, significantly advances the protection of children in armed conflict and post-conflict situations. The Office has successfully advocated for the inclusion of an explicit agenda for children in situations of armed conflict in the outcome document, and will work with Member States to bring the drafting to completion when negotiations resume.